IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Writ Petition No.4531 of 1983

Date of Decision: December 18, 2007

Kashmir Singh, Asstt. .....Petitioner

Versus

Life Insurance Corporation of India & another .....Respondents

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.HS Grewal, Advocate for the petitioner.

Mr.BR Mahajan, Advocate for the respondents.

S. D. ANAND, J.

1. The petitioner, on account of his incarceration in Jail due to the pendency of a case under Sections 302 of the Indian Penal Code and 25 of the Arms Act against him, was disabled from rendering services to the employer-Life Insurance Corporation of India (hereinafter referred to as "the respondent". Consequent upon his acquittal, he preferred a claim for the award of wages for the period he was lodged in the Jail.

2. The petitioner had earlier filed Civil Writ Petition No.3252 of 1973 which was disposed of by this Court vide order dated 26.4.1982 directing the Zonal Manager of the respondent to dispose of the grievance of the petitioner in accordance with law. In compliance therewith, the Zonal Manager passed order Annexure P5 vide which the claim raised by the petitioner for treating the period of incarceration as the period spent on duty was declined.

3. Mr.HS Grewal, learned counsel appearing on behalf of the petitioner, argued that the provisions of Section 38 of the Life Insurance Corporation of India (Staff) Regulations, 1960 (hereinafter referred to as the "1960 Regulations") provide that "in case an employee is honourably acquitted, he would be entitled to full pay and allowances which he would have been entitled to if he had not been dismissed, removed or suspended, less the subsistence allowance". The further argument, in the context, is that "in a case falling under clause (a), the period of absence from duty will be treated as a period spent on duty."

4. The plea was resisted by the learned counsel appearing on behalf of the respondents by arguing that the Regulations aforementioned would have been applicable if the staying away from duty by the petitioner was on account of any action on the disciplinary front on the part of the respondents. Though there can obviously be no dispute with the connotation of Regulation 38 of the 1960 Regulations, I do not buy the argument put forward on behalf of the petitioner in the present case. It is beyond the pale of controversy that the petitioner could not attend to his duty on account of his lodgment in Jail in connection with a murder case which (case) had nothing to do at all with the respondents. There could well be a situation where the Bank had launched a prosecution against an employee on a charge relatable to the performance of his duty. If, in that eventuality, an employee is incarcerated in Jail and is acquitted, the provisions of Regulation 38 of 1960 Regulations aforementioned would come into play and would entitle the employee to full pay and allowances for the period he was lodged in Jail. However, it would be an altogether a different eventuality if an employee comes to be lodged in Jail on account

of a charge which has no relatability whatsoever to the performance of his duty. In that case, even if he is acquitted of the charge, he cannot be heard to lodge a claim for the pay and allowances in respect of the period he could not attend to his job on account of his incarceration during trial . As he did not perform the duty, he cannot be held entitled to full pay and allowances during that period. His having been placed under suspension by the respondents, on account of his lodgment in jail, would only entitle him to subsistence allowance and not even a penny beyond that. The law would not countenance the payment of full pay and allowances to an employee who has to compulsively stay away from duty on account of lodgment in Jail in connection with the attributed role which has no relatability to the nature of his duties.

5. This view of mine is supported by the law laid down by the Apex Court in Ranchhodji Chaturji Thakore Vs. The Superintendent Engineer, Gujarat Electricity Board, 1997(1) S.C.T. 824 and Baldev Singh Vs. Union of India and others, 2005(10) J.T. 213.

6. The petition is bereft of merit and is ordered to be dismissed.

(S. D. ANAND)
JUDGE

December 18, 2007
SRM

Note: Whether referred to reporter ? Yes/No